

AFFIDAVIT IN SUPPORT OF APPLICATION FOR A SEARCH WARRANT

I, David T. Palczewski, being duly sworn, state as follows:

Introduction and Agent Background

1. I am a Border Patrol Agent (BPA) of the United States Border Patrol (USBP), a component of Customs and Border Protection (CBP) within the Department of Homeland Security (DHS). I have been so employed since February 5, 2009. I have been assigned to the Richford, Vermont Border Patrol Station (“Richford Station”) as a BPA for approximately 3 years, and I currently serve as the Station’s Prosecutions Agent. I was previously assigned to the Calais, Maine Border Patrol Station as a BPA for approximately 10 years and to the Santa Teresa, New Mexico Border Patrol Station for approximately 1 year.

2. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the examination an electronic device—further described below and in Attachment A, which incorporated herein—that is currently in the possession of USBP and the seizure from this device of the electronically stored information described in Attachment B. This warrant application arises from the USBP’s contact with Wilfredo Egizabal-Hernandez (“EGIZABAL”) and Elmer Bran-Galvez (“BRAN”) on June 9, 2023, in the District of Vermont involving suspected violations of 8 U.S.C. §§ 1324 and 1325.

3. The device to be searched is a black Samsung Phone seized from the possession of EGIZABAL on June 9, 2023 (the “DEVICE”). The DEVICE is currently located at the Richford Station at 1668 St. Albans Rd in Richford, Vermont. Based on my training and experience, the DEVICE has been stored in a manner such that the data on it are likely to remain intact and in the same condition as they were at the time of the DEVICE’s seizure. The applied-for warrant would authorize the forensic examination of the DEVICE for the purpose of seizing

electronically stored data, particularly described in Attachment B, that would evidence offenses of human smuggling and illegal entry the user of the DEVICE engaged in or aided and abetted.

4. Based on my training and experience, I am aware that individuals working together to commit crimes often use their cellular phones to contact one another, to research related topics, to navigate while driving, and to coordinate meeting locations. In my investigations of many human-smuggling and narcotics-smuggling cases as a BPA, electronic devices such as the DEVICE were commonly used to facilitate the smuggling event by coordinating transportation; by guiding smugglers, migrants, and receiving load drivers via global positioning system (GPS) applications; and by exchanging verbal and/or non-verbal communications over Wi-Fi and/or a telecommunications network among the participants. For example, in human-smuggling events, individuals coordinating or participating in the events will frequently exchange map coordinates (“pins”) or screenshots of maps to coordinate among the individuals crossing the international border and drivers waiting to pick up the individuals or contraband in the United States. These tasks are frequently necessary in the USBP Swanton Sector Area of Responsibility (AOR). Given the remote and rural nature of the Swanton Sector generally, and the Richford Station AOR specifically, arranging meetings at precise times and navigating to locations unlikely to appear on printed maps often require the use of cellular devices. Further, I am aware that cellular phones and cellular networks often generate and record data without the cellular devices’ users necessarily being aware of, or being able to delete, the resulting data.

5. The information contained within this affidavit is based upon my training and experience, upon my own investigative efforts, and upon investigation by other law enforcement officers with whom I have spoken or whose reports I have reviewed. The following is either known to me personally or has been related to me by persons having direct knowledge of the

events described below. The information in this affidavit is meant to set forth probable cause to believe that the violations occurred and that evidence of them will be found on the DEVICE; it does not necessarily include every fact known to law enforcement about the events described below. Unless otherwise specified, the statements described in the following paragraphs are related in sum and substance and are not meant to be direct quotations or complete descriptions.

Probable Cause

6. On June 8, 2023, Border Patrol Agent (Intelligence) (BPA-I) James Loomis received information that a vehicle of interest was traveling northbound in New York, possibly toward the international border between the United States and Canada in the USBP Swanton Sector. The vehicle, a black Ford Explorer bearing New Jersey license plate K58RTS, was registered to Elmer Bran-Galvez (“BRAN”) of Trenton, New Jersey. The vehicle had been identified as possibly being involved in previous human-smuggling events in Vermont. Based on his suspicion of its involvements in the prior smuggling events, BPA-I Loomis had requested notifications of the vehicle’s northbound travel through the state of New York. BPA-I Loomis was notified that the Ford Explorer had been recorded on a License Plate Reader (LPR) on Interstate 87 North in the southern region of New York at approximately 5:30 P.M.

7. BPA-I Loomis had become aware of the Ford Explorer while investigating a series of human-smuggling events involving a suspected human-smuggling organization (HSO) involving individuals residing in Trenton, New Jersey. As part of the investigation, the United States applied for and received Orders authorizing it to monitor pen register and trap-and-trace (PRTT) data for multiple WhatsApp accounts, including that of Elmer BRAN-Galvez, the registered owner of the Explorer. The PRTT data showed that BRAN had been in consistent contact with a suspected coordinator for the HSO since late March 2023. After identifying

BRAN's vehicle registration, BPA-I Loomis acquired LPR data showing that the Ford Explorer had been recorded on numerous LPRs in northern and southern New York during recent months. Those LPR database entries appeared to coincide with suspected human-smuggling events near Gallup Road in Franklin, Vermont that had not resulted in apprehensions of the smuggled migrants or the interdiction of the transporting vehicle(s) in the United States. Based on the coincidental information, BPA-I Loomis suspected the Ford Explorer had been involved in human-smuggling activities in the Richford Station AOR.

8. On June 8, 2023, at approximately 8:17 P.M., Swanton Sector Communications ("Dispatch") notified USBP agents at the Richford Station of an alert from a remotely operated camera showing at least three individuals with backpacks entering the United States from Canada north of Gallup Road in Franklin, Vermont.¹ The camera is located in a remote area with farmland and a few residential houses where Gallup Road parallels the United States border with Canada less than a half mile south of the border. The individuals in the images appeared to be traveling east, parallel to Gallup Road, toward the intersection of Gallup Road and Middle Road in Franklin, Vermont. A map of the area appears below. USBP agents have previously discovered evidence of missed human-smuggling events near that intersection, such as large portions of compressed grass, foot signs of individuals walking south along a tree line parallel to Gallup Road before the intersection of Middle Road, and discarded water bottles behind trees along Middle Road. Agents suspected the intersection was a pick-up location for those events.

¹ The type of remote camera involved in this incident is activated by motion within its field of view. The camera automatically records images when motion is detected and transmits them to USBP computer systems, where they can be accessed and viewed by USBP personnel at Dispatch. USBP agents place these cameras in areas known or suspected to have been used by smugglers or migrants attempting to cross the border without inspection by immigration officers.



9. Based on the direction of travel of the individuals in the remote camera images and the LPR data regarding BRAN's northbound Ford Explorer, USBP agents suspected BRAN might be enroute to Franklin, Vermont to pick up the individuals and transport them in furtherance of their illegal entry into the United States.

10. Supervisory Border Patrol Agent (SBPA) Matthew Trombley was on duty in the Richford AOR when Dispatch notified agents of the camera activation. He traveled to the intersection of Gallup Road and Middle Road to surveil the area and possibly intercept the three subjects and/or a vehicle intending to pick them up. SBPA Trombley concealed himself in a wooded area with a view of a previous load-up location along Middle Road. Other Richford Stations BPAs positioned themselves at various locations near the area in Franklin, Vermont to locate BRAN's Ford Explorer or any other vehicle as it arrived to pick up the illegal entrants.

11. At approximately 10:30 P.M on June 8, 2023., BPA-I Loomis observed BRAN's vehicle—the black Ford Explorer with New Jersey license plate K58RTS—parked at a

Maplefields convenience store along Route 78 in Swanton, Vermont. Based on my training and experience, I know that transporters for human-smuggling events often “stage” in public areas near the pickup locations while waiting for the migrants to arrive at the pre-determined pickup location. BPA-I Loomis parked his unmarked service vehicle at a McDonald’s restaurant located near the Maplefields to observe BRAN’s vehicle. BPA-I Brian Wilda also arrived in his unmarked service vehicle to assist BPA-I Loomis and observe the events.

12. At approximately 11:40 P.M. on June 8, 2023, BPA-I Loomis witnessed a male—consistent in appearance with BRAN based on open-source Facebook postings and an arrest photograph from 2013 he had reviewed—exit the passenger seat of the Ford Explorer. The individual entered the Maplefields and then exited the store at approximately 11:50 P.M. After he entered the Ford Explorer, the vehicle left the Maplefields parking lot and traveled east on Route 78 toward Franklin. BPA-I Loomis and BPA-I Wilda began following the Ford Explorer. They collaboratively maintained surveillance as it drove east on Route 78. The vehicle then turned north onto Hanna Road in Highgate, Vermont. Hanna Road is a lightly used “back road” leading from Highgate to Franklin. To avoid detection, BPA-I Loomis and BPA-I Wilda broke surveillance as the vehicle entered the town of Franklin.

13. At approximately 12:10 A.M. on June 9, 2023, BPA-I Kevin O’Dowd saw a dark-colored Ford Explorer with New Jersey license plates heading east on Route 120 in Franklin, Vermont. He observed the vehicle turn north onto Gallup Road at the north edge of Lake Carmi. BPA-I O’Dowd notified other USBP agents in the area that the vehicle was arriving at the suspected pick-up location. A few minutes later, SBPA Trombley observed the Ford Explorer driving north on Gallup Road. As it reached the intersection of Middle Road, the Ford Explorer turned right onto Middle Road toward the anticipated pick-up location. Using a thermal-imaging

device, SBPA Trombley observed the Ford Explorer stop on Middle Road and observed several individuals emerge from a wooded area and enter vehicle. The Ford Explorer then turned around and returned south on Gallup Road toward BPA-I O'Dowd's location. BPA-I O'Dowd saw the vehicle driving south on Gallup Road and turning right (west) onto Route 120 towards Franklin, Vermont. BPA O'Dowd began to follow the Ford Explorer and informed other agents using his service radio of the vehicle's direction of travel.

14. BPA Eric Phillips parked his marked Border Patrol service vehicle along Route 120 in Franklin, Vermont to intercept the Ford Explorer. At approximately 12:20 A.M., the Ford Explorer neared his position, and BPA Phillips activated his emergency lights to conduct a stop on the vehicle. The Ford Explorer yielded. BPA Phillips, who was in full USBP uniform, approached the vehicle and began an immigration inspection. BPA-I Loomis and BPA-I O'Dowd arrived on scene to assist with the inspection. The driver of the Ford Explorer was identified verbally as Wilfredo EGIZABAL-Hernandez. Agents later located a valid Lawfully Admitted Permanent Resident (LAPR) card in his wallet; he is from Guatemala and currently resides in Trenton, New Jersey. The front seat passenger was identified verbally as Elmer BRAN-Galvez, who claimed to be a citizen of Guatemala without legal status in the United States. Agents later verified his identity with a New Jersey identification card and determined that he is awaiting further proceedings in immigration court. In the rear seats of the Ford Explorer were four male subjects, each of whom admitted to illegally entering the United States.

15. All six subjects were taken out of the vehicle and detained for further investigation. While removing BRAN from the vehicle, BPA-I Loomis observed two smart phones in the center console. BRAN claimed to own the iPhone with a camouflage case, and EGIZABAL claimed to own the black Samsung phone (the DEVICE). Both phones were seized as evidence.

16. All subjects were transported to the Richford Border Patrol Station for further processing and investigation. At the Richford Station, the subjects' identities were confirmed by enrolling them in DHS databases using biometric fingerprints. Agents then attempted to interview each subject. EGIZABAL declined to be interviewed after being read his *Miranda* rights by BPA-I O'Dowd.

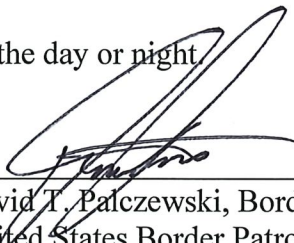
17. BPA-I Loomis interviewed BRAN, who consented to answer questions after being advised of his *Miranda* rights. BRAN admitted to picking up the four individuals, whom he knew had illegally crossed into the United States from Canada. BRAN stated that he expected to be paid \$2,000 for the trip and that EGIZABAL is normally paid \$1,000 per trip. BRAN indicated that he had made similar trips six to seven times in the preceding nine months and that EGIZABAL accompanied him on each trip. BRAN stated EGIZABAL was normally paid directly by the same smuggling coordinator in Trenton, New Jersey who arranged for BRAN to come up on these trips. BRAN could not or would not give the coordinator's full name, but he stated he knew the individual as "Paco" and that his last name was Lopez. BRAN gave agents consent to search his iPhone, and agents confirmed BRAN had exchanged communications with a contact labeled "Loco Paco" with phone number 609-854-5973 during an initial cursory search.

18. Each of the smuggled individuals was interviewed separately, and each agreed to answer questions after being advised of their *Miranda* rights. The individuals each stated they were from Guatemala and had paid approximately \$3,000 to a smuggler in Canada and expected to pay approximately \$3,000 to a smuggler upon their arrival in Trenton. At least two of the individuals indicated they had been in direct contact with BRAN and/or the number associated with "Loco Paco" prior to or during the event.

Conclusion and Request

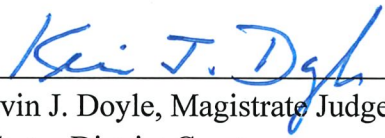
19. Based on the foregoing information, I submit there is probable cause to believe that on or about June 8, 2023, in the District of Vermont, Wilfredo EGIZABAL-Hernandez, a LAPR residing in the United States, and Elmer BRAN-Galvez, a citizen of Guatemala without legal status in the United States, conspired to bring aliens into the United States and transport them in furtherance of their illegal entry while knowing or recklessly disregarding the fact that they were aliens who had illegally entered the United States. Their actions appear to have violated 8 U.S.C. § 1324 and aided and abetted the aliens' illegal entry in violation of 8 U.S.C. § 1325. There is also probable cause to believe that the DEVICE would contain evidence of those violations and possibly previous human-smuggling offenses. I respectfully request the issuance of a search warrant authorizing the examination of the DEVICE, further described in Attachment A, and the seizure therefrom of data described in Attachment B.

20. Because this warrant seeks only permission to examine the Devices, which are already in law enforcement's possession, the execution of this warrant does not involve the physical intrusion onto premises. Consequently, I submit there is reasonable cause for the Court to authorize execution of the warrant at any time in the day or night.



David T. Palczewski, Border Patrol Agent
United States Border Patrol

Subscribed and sworn to before me on the 16th day of June, 2023.



Hon. Kevin J. Doyle, Magistrate Judge
United States District Court
District of Vermont